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ROUTING AND RECORD SHEET

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FROM:

Legislative Counsel
6D15 HQ

EXTENSION

NO.

DATE

29 December 1977

STAT

TO: (Officer designation, room number, and
building) 17 E/0/0DA 12/27
7 DDA

DATE

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COMMENTS (Number each comment to show from whom
to whom. Draw a line across column after each comment.)

1. Mike Malanick
A/DDA
7D18 HQ

6 JAN 1978

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Attached for your review and comment is a draft Title III of the charter legislation. This title corresponds to Title IV of the SSCI material and would serve as the Agency's charter; it should be reviewed in conjunction with the DCI draft Title I of 13 December 1977, a copy of which has been provided your office. It is anticipated that, as was done with Title I, this draft will form the basis for focusing and developing positions on the CIA charter. As a first step in this process, please review this draft and provide comments by COB Tuesday, 3 January 1978, or sooner if possible.

This draft incorporates various comments already received from offices on charter matters, and we are still considering different ways of dealing with certain provisions. For example, we are looking into reducing most of section 306 on allowances and expenses to just a few very general provisions picking up existing statutory authorities for foreign and domestic allowances and expenses.

We are continuing to review the SSCI drafts, and are discussing on an informal basis with SSCI staffers various provisions in the Committee's Titles I and IV.

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Office of Legislative Counsel

NATIONAL INTELLIGENCE ACT OF 1978

TITLE III--CENTRAL INTELLIGENCE AGENCY

Renumbered Title IV

TITLE III--CENTRAL INTELLIGENCE AGENCY

- SEC. 301. Statement of Purposes
- SEC. 302. Definitions
- SEC. 303. Establishment of the Central Intelligence Agency; Director
- SEC. 304. Deputy Director; General Counsel; Inspector General; Other Offices
- SEC. 305. Authorities and Functions of the Agency
- SEC. 306. Travel; Other Expenses; Death Gratuities for Certain Agency Personnel
- SEC. 307. Retirement System
- SEC. 308. Appropriations; Related Requirements and Authorities
- SEC. 309. Procurement Authority
- SEC. 310. Relationships with Other Government Agencies
- SEC. 311. Conflicts of Interest
- SEC. 312. Restrictions
- SEC. 313. Criminal Penalties
- SEC. 314. Transfer of Personnel, Property and Functions

TITLE III - CENTRAL INTELLIGENCE AGENCY

STATEMENT OF PURPOSES

Sec. 301. It is the purpose of this title--

- (a) to establish a Central Intelligence Agency to be headed by the Director of National Intelligence, and to provide for the authorities and duties of the Agency;
- (b) to provide for certain limitations on the activities of the Agency;
- (c) to achieve, through the Agency, the effective coordination of the foreign intelligence collection and production activities of the Government; and
- (d) to ensure that the intelligence activities of the Agency are properly directed and administered.

DEFINITIONS

Sec. 302. (a) Except as otherwise provided in this section, the definitions in Title I of this Act shall apply to this title.

(b) As used in this title--

- (1) The term "cover" refers to any means intended to protect the security of an intelligence activity or the safety of an officer, employee or agent of the United States Government by disguising the true identity or affiliation with the United States Government of such activity, officer, employee or agent, or of a related corporation or organization.
- (2) The term "proprietary" means a sole proprietorship, partnership, corporation or other business entity owned in whole or in part, or controlled, by the Central Intelligence Agency and doing business under private commercial cover in furtherance of a lawful intelligence activity of that Agency.

ESTABLISHMENT OF THE CENTRAL
INTELLIGENCE AGENCY; DIRECTOR

Sec. 303. (a) There is hereby established a Central Intelligence Agency (hereinafter in this title referred to as the "Agency") to be headed by the Director of National Intelligence.

(b) The Director of National Intelligence shall designate, from among the Deputy Director of National Intelligence and the functional Deputy Directors, which positions are established in section 103 of this Act, one person who shall be primarily responsible for the management of the Agency, to be known as the Director of the Central Intelligence Agency (hereinafter in this title referred to as "Director of the Agency"), and the Director of National Intelligence shall assign to the person so designated such authorities and duties as the Director of National Intelligence deems appropriate to fulfill such management responsibilities.

DEPUTY DIRECTOR; GENERAL COUNSEL;
INSPECTOR GENERAL; OTHER OFFICES

Sec. 304. (a) There shall be a Deputy Director of the Agency appointed by the Director of National Intelligence. The Deputy Director shall assist the Director of the Agency in the performance of his duties and shall act for and exercise the powers of the Director of the Agency in the absence or disability of the Director of the Agency. In the event of a vacancy in the Office of the Director of the Agency, the Deputy Director of the Agency shall assume responsibility for the management of the Agency, under the direction of the Director of National Intelligence, until such time as the vacancy is filled.

(b) There shall be a General Counsel of the Agency appointed by the Director of National Intelligence who shall serve as the principal legal adviser to the Director of National Intelligence and to the Agency. The General Counsel shall have the responsibility and authority to--

(1) review all activities of the Agency and advise the Director of National Intelligence and the Director of the Agency whether such activities are in conformity with the Constitution and laws of the United States, Executive Orders and Presidential directives, and the rules, regulations and policies of the Agency;

(2) review all existing and proposed regulations of the Agency to ensure conformity with the Constitution and laws of the United States, Executive Orders and Presidential directives; and

(3) perform the duties assigned to the General Counsel of each agency within the Intelligence Community by section 108 of this Act.

(c) There shall be an Inspector General of the Agency appointed by the Director of National Intelligence, who shall have the responsibility and authority to--

(1) investigate all activities of the Agency to determine in what respects the Agency may more effectively perform its lawful functions and to determine the facts and circumstances of any alleged wrongdoing;

(2) advise the Director of National Intelligence and the Director and General Counsel of the Agency of the Inspector General's findings regarding such activities;

(3) perform the duties assigned to the Inspector General of each agency within the Intelligence Community by section 108 of this Act;

(4) perform such other investigations as the Director of National Intelligence or the Director of the Agency deem necessary and appropriate, subject to the provisions of this Act; and

(5) perform such other duties as the Director of National Intelligence or the Director of the Agency may prescribe.

(d) Upon appointment of a Director, Deputy Director, General Counsel or Inspector General of the Agency, the Director of National Intelligence shall inform the Select Committees on Intelligence of the House and Senate of such appointment.

(e) The Director of the Agency may appoint such subordinate officials to assist in the performance of authorities and duties of that position as the Director of the Agency deems appropriate; Provided, that the number of Executive Schedule positions within the Agency in addition to those of Director, Deputy Director, General Counsel and Inspector General, and the number of positions in the grades of GS-16, GS-17 and GS-18 other than those transferred to the Agency under this Act shall be as authorized by law.

(f) Section 5315 of Title 5, United States Code, is amended by adding at the end thereof:

"(114) Deputy Director, Central Intelligence Agency.
(115) General Counsel, Central Intelligence Agency.
(116) Inspector General, Central Intelligence Agency."

AUTHORITIES AND FUNCTIONS OF THE AGENCY

SEC. 305. (a) Under the direction and in support of the authorities and duties of the Director of National Intelligence, the Agency is authorized to--

(1) collect intelligence through overt, clandestine and technical means, including the collection of signals intelligence according to agreements with the National Security Agency;

(2) process, retain and analyze intelligence, and coordinate and disseminate intelligence throughout the Government;

(3) conduct foreign counterintelligence activities outside the United States and coordinate foreign counterintelligence activities conducted outside the United States by agencies within the Intelligence Community, and conduct foreign counterintelligence activities within the United States in coordination with the Federal Bureau of Investigation according to the provisions of this Act;

(4) conduct special activities in support of national foreign policy objectives;

(5) coordinate the collection, outside the United States, of intelligence not obtainable by overt means;

(6) carry out or contract for research, development and procurement of systems and devices relating to authorized functions, according to the provisions of section 309 of this title;

(7) conduct administrative, technical and support activities in the United States or abroad as necessary to perform the authorities and functions provided in this title;

(8) perform such services of common concern for the Intelligence Community as the National Security Council and the Director of National Intelligence determine can be more efficiently accomplished centrally;

(9) provide inspection, audit, public affairs, legal and legislative services and support to the Director of National Intelligence;

(10) conduct, develop and implement policies concerning intelligence relationships with foreign governments and foreign intelligence and security services of foreign governments, and coordinate all such relationships between agencies within the Intelligence Community and foreign governments and foreign intelligence and security services of foreign governments; and

(11) within the United States, collect foreign intelligence from publicly available sources and from persons who voluntarily provide such intelligence, and establish and maintain with foreign persons within the United States such contacts as are necessary for the conduct of foreign intelligence activities by the Agency outside the United States.

(b) In carrying out its authorities under paragraph (a) of this section, the Agency is further authorized to--

(1) transfer to and receive from other departments and agencies for the sole purpose of carrying out functions authorized by this Act, such sums of money as may be approved by the Director of National Intelligence and the Director of the Office of Management and Budget, and any other Government agency is authorized to transfer to or receive from the Agency such sums without regard to any provisions of law limiting or prohibiting transfers between appropriations; Provided that, sums so transferred to the Agency may be expended without regard to limitations of appropriations from which transferred;

(2) exchange funds without regard to the provisions of section 3651 of the Revised Statutes (31 U. S. C. 543);

(3) detail or assign personnel to other Government agencies as necessary and reimburse other Government agencies for services of personnel detailed or assigned to the Agency, and such other Government agencies are authorized, without regard to provisions of law to the contrary, so to assign or detail any officer or employee for duty with the Agency.

(4) authorize, under such regulations as the Director of National Intelligence shall prescribe, Agency personnel, while in the discharge of their official duties, to carry firearms; Provided, however, that within the United States, such official duties shall include only the protection of (i) information concerning intelligence sources and methods and classified intelligence documents and material; (ii) facilities, properties, monies and other valuable assets owned or utilized by the Agency; (iii) the Director of National Intelligence and other Agency personnel as may be designated by the Director of National Intelligence; and (iv) defectors and foreign persons visiting the United States under Agency auspices; and Provided further, that such duties shall include the transportation and utilization of firearms for authorized training;

(5) rent any premises necessary to carry out any functions of the Agency authorized under this Act, and make alterations, improvements and repairs to premises of or rented by the Agency without regard to any limitation prescribed by law if the Director of the Agency certifies to the Director of National Intelligence that a waiver of the limitation otherwise applicable to the renting, alteration, improvement, or repair, as the case may be, of premises is necessary to the successful performance of the Agency's functions or the security of its activities;

(6) appoint and contract for such personnel as the Director of National Intelligence deems advisable, in addition to the authority provided in paragraph 304(a) of this title and without regard to the provisions of Title 5, United States Code, governing appointments in the competitive services, and fix the compensation of such personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title, relating to classification and General Schedule pay rates, but at rates not in excess of the rate authorized for GS-18 by section 5332 of that title;

(7) establish, maintain and operate secure communications systems in support of Agency operations and, as a service of common concern, under the direction of the Director of National Intelligence, establish, maintain and operate such secure communications systems as may be required for the use of other departments and agencies;

(8) establish, furnish and maintain, in accordance with provisions of this Act and notwithstanding the provisions of any other law, secure cover for Agency officers, employees and agents, and utilize for these purposes any other department or agency except the Peace Corps, in coordination with the head of the department or agency;

(9) establish and operate, notwithstanding the provisions of any other law, proprietaries to support Agency operations; Provided, that any proprietary established and operated by the Agency may be operated on a commercial basis to the extent necessary to provide effective cover, and any funds generated by any such proprietary in excess of the amount necessary for its normal operational requirements shall be deposited by the Director of National Intelligence into miscellaneous receipts of the Treasury; and Provided further, that whenever any such proprietary is to be liquidated, sold or otherwise disposed of, the Agency shall, as much in advance of the liquidation, sale or other disposition of the proprietary as practicable and subject to such security standards as the Director of National Intelligence shall establish, report the circumstances of the intended liquidation, sale or other disposition to the Attorney General and the Comptroller General of the United States, and any proceeds from any such liquidation, sale or other disposition shall be deposited by the Director of National Intelligence into miscellaneous receipts of the Treasury unless utilized solely for the establishment and operation of other proprietaries;

(10) establish, as appropriate and notwithstanding the provisions of any other law, such committees or other advisory groups to assist in the execution of authorities under this title, as deemed necessary by the Director of the Agency; and

(11) protect the security of its installations, activities, information and personnel by appropriate means under the provisions of this Act, including such investigations of applicants, employees, contractors and other persons associated with the Agency as are necessary.

(c) In the interests of the security of the foreign intelligence activities of the United States and in order further to implement the proviso of section 105(h) of this Act that the Director of National Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure, the Agency shall have the authority to protect intelligence sources and methods and shall be exempted from the provisions of any other law which require the publication or disclosure of the organization, functions, names, official titles, salaries or numbers of personnel employed by the Agency.

TRAVEL; OTHER EXPENSES; DEATH GRATUITIES
FOR CERTAIN AGENCY PERSONNEL

SEC. 306. (a) Definitions. As used in this section--

(1) the term "employee" means any person employed, by appointment or by contract, by the Agency, but excludes persons hired locally in foreign areas working under contract and persons who when hired are resident in or citizens of the country of the duty station at which they are to be employed, unless specifically included;

(2) the term "foreign area" means all duty stations, not in the United States;

(3) the term "United States" means the several states, the District of Columbia, the Commonwealth of Puerto Rico, the Territory of the Virgin Islands, and the Canal Zone, but excluding Guam and all other territories of the United States; and

(4) the term "continental United States" means the 48 contiguous States and the District of Columbia.

(b) Under such regulations as the Director of the Agency may approve, the Agency, with respect to its employees assigned to duty stations in foreign areas, or within other geographical areas when so indicated may--

(1) pay the travel expenses of employees of the Agency, including expenses incurred while traveling to or from a post of duty or pursuant to authorized home leave, or otherwise traveling in accordance with authority granted pursuant to provisions of this title or any other provision of law;

(2) pay the travel expenses of members of the immediate family of an employee of the Agency when proceeding to or returning from the employee's post of duty; accompanying the employee on authorized home leave; or otherwise traveling in accordance with authority granted pursuant to the provisions of this title or any other provision of law;

(3) pay the cost of transporting the furniture and household and personal effects of an employee of the Agency to the employee's successive posts of duty and, on the termination of the employee's services, to the employee's residence at time of appointment or to a point not more distant, or, upon retirement, to the place where the employee will reside;

(4) pay the cost of packing and unpacking, transporting to and from a place of storage, and storing the furniture and household and personal effects of an employee of the Agency when the employee is absent from the employee's post of assignment under orders, or when the employee is assigned to a post to which the employee cannot take or at which the employee is unable to use such furniture and household and personal effects, or when it is in the public interest or more economical to authorize storage; but in no instance shall the weight or volume of the effects stored together with the weight or volume of the effects transported exceed the maximum limitations fixed by Agency regulations when such limitations are not fixed by law;

(5) pay the cost of packing and unpacking, transporting to and from a place of storage, and storing the furniture and household and personal effects of an employee of the Agency in connection with assignment or transfer to a new post, from the date of the employee's departure from the last post or, in the case of a new employee, from the date of the employee's departure from the place of residence, and for not to exceed 180 days after arrival at the new post or until the establishment of residence quarters, whichever is shorter; and in connection with separation of an employee of the Agency, the cost of packing and unpacking, transporting to and from a place of storage, and storing for a period not to exceed 90 days, the employee's furniture and household and personal effects; but in no instance shall the weight or volume of the effects transported exceed the maximum limitations fixed by Agency regulations when such limitations are not fixed by law;

(6) pay the travel expenses and transportation costs (including costs of the necessary temporary storage of property) incident to the removal to any geographical location deemed a necessary safehaven by the Director of the Agency, any employee of the Agency, the employee's immediate family, and the employee's furniture and household and personal effects, including any automobile, from a post at which, because of the prevalence of disturbed conditions, there is imminent danger to life and property, and the return of such persons, furniture and effects to such post upon cessation of such conditions; or to such other post as may in the meantime have become the post to which such employee has been assigned;

(7) charge expenses in connection with travel of any employee, members of the employee's immediate family, and transportation of their household goods and personal effects, involving a change of permanent station, to the appropriation for the fiscal year current when any part of either the travel or transportation pertaining to the transfer begins pursuant to previously issued travel and transfer orders, notwithstanding the fact that such travel or transportation may not all be effected during such fiscal year or that the travel and transfer orders may have been issued during the prior fiscal year;

(8) order to the United States on home leave each employee of the Agency who was a resident or citizen of the United States upon completion of eighteen months continuous service abroad or as soon as feasible thereafter;

(9) notwithstanding the provisions of any other law, transport for or on behalf of an employee of the Agency stationed outside the continental United States, a privately owned motor vehicle in any case in which it shall be determined that water, rail or air transportation of the motor vehicle is necessary or expedient for all or any part of the distance between points of origin and destination, and pay the costs of such transportation; but not more than one motor vehicle of any officer or employee of the Agency may be transported under authority of this clause during any continuous four-year period abroad, except that, as a replacement for such motor vehicle, additional motor vehicles of any such employee stationed in a foreign area may be so transported during such period if the Director of the Agency (A) determines in advance that such replacement is necessary for reasons of operational necessity or security and beyond the control of the employee and is in the interest of the Government, and (B) approves such transportation in advance.

(10) pay the cost of transporting a replacement vehicle for the motor vehicle of any employee of the Agency who has remained on continuous service in a foreign area after the expiration of a four-year period following the date transportation was last provided under this section for a motor vehicle for such employee;

(11) establish a medical facility and provide for the services of medical personnel at a post in a foreign area or in the United States at which sufficient personnel are employed to warrant such a facility and personnel, but only if the Director of the Agency determines that it is not feasible or appropriate for reasons of operational necessity or security to use an existing medical facility;

(12) in the event of illness or injury requiring the hospitalization of an employee of the Agency or member of the immediate family of such an employee of the Agency, not the result of vicious habits, intemperance or misconduct, incurred while on assignment in a foreign area or Alaska, in a locality where there does not exist a suitable hospital or clinic, pay the travel and transportation expenses of such employee, or member of his immediate family by whatever means the Director of the Agency shall deem appropriate and without regard to the Standardized Government Travel Regulations and section 5731(a) of Title 5, United States Code, to the nearest locality where a suitable hospital or clinic exists, pay a per diem for such period of time as the employee or member of the employee's immediate family is hospitalized, and on such person's recovery pay for the travel expenses of such person's return to the employee's post of duty or to such other post as may in the meantime have become the post to which such employee has been reassigned; and if the employee or member of the employee's immediate family is incapacitated or too ill or too young to travel unattended, the Director of the Agency may also pay the travel expenses of an attendant or attendants;

(13) in the event of illness or injury requiring hospitalization of an employee of the Agency, not the result of vicious habits, intemperance or misconduct on his part, incurred in the line of duty while such person is assigned to a foreign area, pay for the cost of treatment of such illness or injury at a suitable hospital or clinic;

(14) in the event a member of the immediate family of an employee of the Agency who is assigned outside the continental United States incurs an illness or injury while such member of the family is located outside the continental United States, which requires hospitalization or similar treatment, and which is not the result of vicious habits, intemperance or misconduct on the employee's part, pay for the cost of treatment of each such illness or injury up to a maximum limitation of 120 days of treatment for each such illness or injury, except that such maximum limitation shall not apply whenever the Director of the Agency, on the basis of professional medical advice, determines that such illness or injury clearly is caused by the fact that such member of the immediate family is or has been located outside the continental United States;

(15) make payments for the costs of medical or hospital care under clauses 12, 13 and 14 of this paragraph only insofar as such costs would not otherwise be payable under the terms of a health benefits plan approved by the Director of the Agency available to the employees of the Agency and to which the Agency contributes under the provisions of chapter 89 of Title 5, United States Code;

(16) provide the benefits under clauses (12) through (14) of this paragraph beyond the date of death or separation of an employee of the Agency, so long as entitlement to such benefits initially occurred prior to the death or separation of the employee;

(17) pay the costs of periodic physical examinations of employees of the Agency and applicants for such employment and for the costs of administering inoculations or vaccinations to such employees; and pay the cost of providing the same services to the members of the immediate family of such employees when such members accompany such employees to foreign areas where no sufficient United States governmental medical facilities are available.

(18) contract for or provide, other than as prescribed in clauses (11) through (17) of this paragraph, such medical care and services, insurance or health plans as provided under clauses (11) through (17) of this paragraph, to employees of the Agency and to other persons associated with the Agency as determined by the Director of the Agency by regulation, whenever the Director of the Agency determines that it is necessary to provide such benefits in such manner for reasons of operational necessity or security;

(19) pay the costs of preparing, transporting and escorting the remains of any employee of the Agency, or a member of the employee's immediate family who may die while in official travel status or while assigned at any duty station in a foreign area or in the United States, and the transportation costs of dependents and household goods to the employee's designated permanent place of residence in the United States or a place not more distant;

(20) pay the costs of travel of any new employee of the Agency and members of such employee's immediate family, and the transportation of their household goods and personal effects, from the place of actual residence at the time of appointment, regardless of location, and upon separation, return to the employee's designated places of residence at the time of appointment or a point not more distant; but the costs of such travel and transportation shall be paid only if such new employee possesses specialized talent or expertise as determined by the Director of the Agency, or is assigned directly to a foreign post, and agrees in writing to remain in the employ of the United States Government for a period of not less than 24 months from the time such employee is sent to a duty station in a foreign area or in the United States unless separated from employment for reasons beyond such employee's control which are acceptable to the Agency, and any violation of such agreement by an employee for personal convenience or because of separation for misconduct shall bar the return payment;

(21) pay the cost of travel expenses of employees of the Agency who are United States persons, as defined in section 104 of this Act, and members of their immediate families, while serving at posts specifically designated by the Director of the Agency for purposes of this clause, for rest and recuperation to other locations which are designated by the Director of the Agency having different environmental conditions than those at the post at which such employees are serving; but such travel expenses shall be limited to the cost for each employee and members of his immediate family of one round trip of less than first class during any continuous three-year tour unbroken by home leave;

(22) pay the travel expenses of any employee of the Agency for up to two round trips each year for purposes of family visitation in situations where the immediate family of the employee is officially precluded from accompanying such employee to, or has been ordered evacuated from the employee's assigned post because of danger from hostile activity or other hardship conditions, as determined by the Director of the Agency, except that, with respect to any such employee whose family is located in a foreign area or in a remote area of Alaska designated in regulations by the Director of the Agency, the Director of the Agency may in lieu of such trips authorize such trips as he deems appropriate not to exceed the equivalent cost of two round trips of less than first class to the District of Columbia;

(23) pay the travel expenses of employees stationed in or in an official travel status to a foreign area or in Alaska (or members of employees' families who are located in a foreign area or in Alaska), for purposes of family visitation in any emergency situation involving a serious illness or injury or death involving a spouse, parent or child (as defined in section 8101, Title 5, United States Code), but the facilities of the Military Airlift Command shall be utilized whenever possible for travel authorized under this clause;

(24) pay the travel expenses, including a per diem where appropriate, of members of the immediate family accompanying, preceding or following an employee if, while such employee is en route to his post of assignment, the employee is ordered temporarily for orientation and training or is given other temporary duty; and

(25) pay travel expenses and allowances as prescribed in section 5724 of Title 5, United States Code, for employees who are assigned for training under chapter 41 of Title 5, United States Code.

(c) While any employee of the Agency is on home leave in the United States such employee shall be available for such work or duty for the Agency as the Director of the Agency may prescribe; Provided, that the time devoted to such work or duty by such employee shall not be counted as leave time; and Provided further, that whenever an employee of the Agency returns to the United States on leave, the time actually and necessarily occupied in traveling to and from the United States (including any time actually and necessarily occupied in awaiting transportation) shall not be counted as leave time.

(d) Notwithstanding any other provision of law, the Director of the Agency may grant, in addition to any other allowance authorized by law, a separate maintenance allowance to assist an employee of the Agency who is compelled, because of dangerous, notably unhealthy or excessively adverse living conditions at this post of assignment in any foreign area or in a remote area of Alaska, or for the convenience of the Government, to meet the additional expense of maintaining, elsewhere than at the post, his spouse or other dependents, or both.

(e) The Agency may, without regard to the provisions of section 3648 of the Revised Statutes (31 U.S.C. 529), make advance payments for any of the purposes in this section. Any sum advanced and not used for allowable expenses is recoverable from the person to whom the advance was made or his estate by--

(1) set-off against accrued pay, retirement credit, or other amount due such person or his estate,

(2) a deduction from any amount due such person from the United States, or

(3) such other method as is authorized by law, unless the Director of the Agency or his designee determines that recovery of any such sum will not be in the best interests of the United States.

(f) The Agency may, when the Director of the Agency shall find it to be in the best interests of the Government to do so as a means of eliminating transportation costs, provide assigned persons with basic household furnishings and equipment for use on a loan basis in personally or government owned or leased residences in foreign areas or in remote areas of Alaska.

(g) Under such regulations as the Director of the Agency may prescribe, the Agency, with respect to its employees assigned to duty stations in the United States, may waive the applications of the provisions of sections and of Public Law 89-516 for certain employees when the Director of the Agency deems that the official change of station involved is of such a limited duration as to warrant the waiver.

(h) Death Gratuities for Certain Agency Employees

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Under such regulations as the Director of the Agency may prescribe, the Agency is authorized to provide for payment of a gratuity to surviving dependents of any Agency employee, including

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sustained in the performance of duty in a foreign area in an amount equal to one year's salary at the time of death. A death gratuity payment shall be made under this subsection only if the survivors entitled to payment under this subsection are entitled to elect monthly compensation under section 8133, Title 5, United States Code, because the death resulted from an injury (excluding a disease proximately caused by the employment) sustained in the performance of duty, without regard to whether such survivor elects to waive compensation under such section 8133. Any death gratuity payment made under this subsection shall be held to have been a gift and shall be in addition to any other benefit payable from any source. A death gratuity payment under this subsection shall be made as follows: (1) first, to the widow or widower; (2) second, to the child, or children in equal shares, if there is no widow or widower; and (3) third, to the dependent parent, or dependent parents in equal shares if there is no widow, widower or child. If there is no survivor entitled to payment under this subsection, no payment shall be made. As used in this subsection, the terms "widow," "widower," "child," and "parent" shall have the same meaning given each such term under section 8101, Title 5, United States Code.

(i) The Agency, under such regulations as the Director of the Agency may prescribe, may pay the travel expenses of dependents of an employee, not to exceed one annual trip each way for each dependent, during such period as each dependent is a full-time student at any secondary school or in an undergraduate degree program at a college in the United States, from such school to the employee's duty station.

(j) (1) Whenever the President determines that it would be appropriate for the purpose of maintaining conformity between provisions of law relating to travel and related expenses and death gratuities of the Foreign Service of the United States and provisions of law relating to travel and related expenses and death gratuities of employees of the Agency, he may, by Executive Order, extend to Agency employees, a provision of law enacted after 1 January 1976, which:

(A) amends part B, subchapter IX, chapter 14, Title 22, United States Code, or

(B) amends section 2679a, chapter 38, Title 22, United States Code, or

(C) otherwise affects provisions of law relating to travel and related expenses or death gratuities of the Foreign Service.

Any such Order shall extend such provision of law so that such provision applies in like manner with respect to Agency employees. Any such Order, when effective, shall have the force and effect of law and may be given retroactive effect to a date not earlier than the effective date of the corresponding provision of law relating to Foreign Service personnel.

(2) Any provisions of an Executive Order issued pursuant to this subsection shall modify, supersede or render inapplicable, as the case may be, to the extent inconsistent therewith--

(A) all provisions of law enacted prior to the effective date of the provisions of such Executive Order, and

(B) any prior provision of any Executive Order issued under authority of this section.

(k) Failure to address or provide for in this section any allowance, expense, service or other benefit which may be so addressed or provided for in other law shall not, in any manner or respect, affect any such allowance, expense, service or other benefit which may be available or applicable to Agency employees or other persons under contract to the Agency.

RETIREMENT SYSTEM

SEC. 307. Employees of the Agency shall participate in the regular Federal civil service retirement system pursuant to subchapter III of chapter 83 of Title 5, United States Code. The Director of National Intelligence may, however, continue to designate for participation in the Central Intelligence Agency Retirement and Disability System, authorized by the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (78 Stat. 1043; 50 U. S. C. 403 note), certain employees of the Agency whose duties are either (1) in support of Agency activities abroad and are highly hazardous to life or health or (2) so specialized as to be clearly distinguishable from normal Government employment; but the number of employees of the Agency which may retire on an annuity under such system in any period may not exceed the limits prescribed by law.

APPROPRIATIONS; RELATED REQUIREMENTS AND AUTHORITIES

SEC. 308. (a) No funds may be appropriated for any fiscal year beginning after 30 September 1978, for the purpose of carrying out any activity authorized by this title unless such funds have been previously authorized for such activity by legislation enacted during the same fiscal year or the two fiscal years immediately preceding that for which they are appropriated, except that the foregoing limitation shall not apply to funds appropriated by any continuing resolution.

(b) Notwithstanding any other provision of law, sums made available to the Agency by appropriation or otherwise may be expended for purposes necessary to carry out the lawful functions of the Agency, including--

(1) supplies, equipment and personnel and contractual services otherwise authorized by law or regulation, when approved by the Director of the Agency; and

(2) personal services, including personal services without regard to limitations on types of persons to be employed, and rent at the seat of government and elsewhere; training of employees and such other persons associated with the Agency; lease of buildings to the Government without regard to the limitations prescribed in section 322 of the Act entitled "An Act making appropriations for the Legislative Branch of the Government for the fiscal year ending June 30, 1933, and for other purposes," approved June 30, 1932 (40 U.S.C. 278a); health-service programs as authorized by section 7901 of title 5, United States Code; rental of news-reporting services; purchase or rental and operation of photographic reproduction, cryptographic, duplication and printing machines, equipment and devices, and radio-receiving and radio-sending equipment and devices, including telegraph and teletype equipment; purchase, maintenance, operation, repair and hire of passenger motor vehicles, aircraft and vessels of all kinds; subject to policies established by the Director, transportation or officers and employees of the Agency in Government-owned automotive equipment between their domiciles and places of employment where such personnel are engaged in work which makes such transportation necessary, and transportation in such equipment, to and from school, of children of Agency personnel who have quarters for themselves and their families at isolated stations outside the continental United States where adequate public or private transportation is not available; printing and binding; purchase, maintenance and cleaning of firearms, including purchase, storage and maintenance of ammunition; subject to policies established by the Director of the Agency, expenses of travel in connection with, and expenses incident to attendance at meetings of professional, technical, scientific and other similar organizations when such attendance would be a benefit in

the conduct of the work of the Agency; operation of supply depots and disposal of surplus personal property to foreign entities under such regulations as the Director of the Agency may approve; association and library dues; settlement and payment of claims of civilian and military personnel, as prescribed in Agency regulations consistent with the terms and conditions by which claims are settled and paid under the Military Personnel and Civilian Employees' Claims Act of 1964 (31 U.S.C. 240-243); acquisition, construction and alteration of buildings and facilities without regard to the Public Buildings Act of 1959 (40 U.S.C. 601-615); and repair, rental, operation and maintenance of buildings, utilities, facilities and appurtenances.

(c) The sums made available to the Agency may be expended without regard to the provisions of law and regulations relating to the expenditure of Government funds. The Director of National Intelligence may expend any funds appropriated or transferred to the Agency for the purpose of meeting emergency and extraordinary expenses. The expenditure of such funds for such purposes shall be accounted for solely on the certificate of the Director of National Intelligence and every such certificate shall be deemed a sufficient voucher for the amount certified therein, but such expenditures may only be for activities authorized by law. The Director shall report periodically to the Select Committees on Intelligence of the House and the Senate on the exercise of this authority.

(d) All funds made available to the Agency, all activities of the Agency and information relating thereto shall be subject to financial and program management audit and review by the Comptroller General of the United States upon the request of, or with the approval of, the Select Committees on Intelligence of the House and the Senate, except that any funds expended for any particular activity, and the activity for which funds are expended, may be exempted by the Director of National Intelligence from such audit and review if the Director of National Intelligence (1) determines such exemption to be necessary to protect the security of the United States, (2) notifies in a timely manner the Select Committees on Intelligence of the House and the Senate of such exemption and the reasons for granting it; Provided, that any audit or review conducted by the Comptroller General of the United States under authority of this subsection shall be conducted in accordance with such security standards as the Director of National Intelligence prescribes. Information resulting from any such audit or review shall be available in the Congress only to the committees of the Congress authorized herein to request such audit or review.

SEC. 309. (a) The Agency is authorized to procure such property, services, equipment and facilities as may be necessary to carry out its functions under this title. The provisions of chapters 137 and 139 of Title 10, United States Code, relating to the procurement of property, services and research and development activities, shall apply to the procurement of property and research and development activities by the Agency under this title in the same manner and to the same extent such chapters apply to the procurement of property, services and research and development activities by the agencies named in section 2302(a) of chapter 137 of Title 10, except that the Director of the Agency is authorized, with the approval of the Director of National Intelligence, to waive the application of any or all of the provisions of chapters 137 and 139 of Title 10 when the Director of the Agency deems such action necessary to the successful performance of any function of the Agency or to protect the security of activities of the Agency.

(b) The Agency is further authorized to procure property, goods, or services in such a manner that the role of the Agency is not apparent or publicly acknowledged if, in the view of the Director of the Agency, public knowledge that the Agency is the procurer of the property, goods, or services will inhibit or interfere with the secure conduct of an authorized Agency function. The procurement authority provided under this subsection may be exercised by the Agency notwithstanding any other provision of law and shall not be modified, limited, suspended or superseded by any other provision of law enacted after the effective date of this title unless such provision expressly cites this subsection.

RELATIONSHIPS WITH OTHER GOVERNMENT AGENCIES

SEC. 310. (a) In addition to those activities of the Agency which relate to other departments and agencies and which are authorized in other provisions of this Act, the Agency is further authorized to--

- (1) cooperate with Federal, State, or local law enforcement agencies for the purpose of protecting personnel and facilities of the Agency;
- (2) seek assistance from State and local law enforcement agencies in the conduct of background and security investigations of applicants for employment with the Agency, employees and contractors of the Agency, and other persons associated with the Agency;
- (3) for the purpose of improving the Agency's ability to perform its lawful duties and responsibilities with respect to international terrorist activities, request from the Law Enforcement Assistance Administration and from Federal, State, and local law enforcement agencies information on methods and techniques employed by individuals in terrorist activities within the United States and on equipment and techniques used by such agencies to prevent or counter such terrorist activities;

(4) provide technical guidance, training and equipment to components of other agencies within the Intelligence Community when engaged in intelligence activities;

(5) assist the United States Secret Service in the performance of that service's protective duties;

(6) notify the Immigration and Naturalization Service of circumstances which, at the determination of the Director of the Agency, indicate that a foreign person associated with the Agency should enter or leave the United States under other than such person's true identity or circumstances, and obtain a waiver of otherwise applicable rules and procedures;

(7) notify the Internal Revenue Service, whenever the service is auditing any Agency proprietary or individual operating under cover, of such affiliation and ensure that the audit be so conducted as to avoid public disclosure thereof; and

(8) maintain normal liaison relationships with other departments and agencies.

(b) To assist the Agency in the fulfillment of authorities and responsibilities under this title, the heads of all Executive Branch departments and agencies, in accordance with law and relevant Executive Orders, shall provide appropriate support to the Agency and shall give the Director of National Intelligence and the Director of the Agency access to all information relevant to the national intelligence needs of the United States.

CONFLICTS OF INTEREST

SEC. 311 Officers and employees of the Agency shall be subject to all laws, regulations, Executive Orders, and Presidential directives relating to conflicts of interest and the misuse of information obtained in the course of their official duties, and the Director of National Intelligence, pursuant to policy guidance of the Attorney General, shall issue regulations necessary to implement such laws, regulations, Executive Orders and Presidential directives. Notwithstanding the foregoing provision, the Director of National Intelligence is authorized to waive the application of any such law, regulation, Executive Order or Presidential directive when he deems such action necessary because of the unique function and mission of the Agency, but such a waiver may be granted by the Director of National Intelligence in any case or as to a category of cases only with the written approval of the Attorney General.

RESTRICTIONS

SEC. 312 (a) The authorities, duties, and responsibilities established in this title are subject to the restrictions provided in other titles of this Act.

(b) The Agency shall have no police, subpoena, or law enforcement powers, nor perform any internal security or criminal investigation functions except to the extent authorized by this Act.

CRIMINAL PENALTIES

SEC. 313. (a) Any person who knowingly communicates, furnishes, or otherwise makes available to any unauthorized person, or publishes, or causes to be published, the true identity of any officer or employee of the Agency who is performing Agency functions under cover shall be fined not more than \$20,000 or imprisoned not more than ten years, or both.

(b) Section 207 of Title 18, United States Code, is amended by adding the following subsection:

"(d) Whoever, having been an officer or employee of the Central Intelligence Agency and after his employment with such Agency has ceased, knowingly participates in the liquidation, sale, or other disposition of a proprietary of such Agency, either on his own behalf or as an agent or attorney for anyone other than the United States, shall be fined not more than \$10,000 or imprisoned for not more than two years, or both. As used in this subsection, the term 'proprietary' shall have the same meaning as prescribed in section 302 of the National Intelligence Act of 1978."

(c) Any person who knowingly and without the written permission of the Director of National Intelligence uses the words "Central Intelligence Agency," the initials "CIA," the seal of the Central Intelligence Agency, or any colorable imitation of such words, initials or seal in connection with any advertisement, book, circular, pamphlet or other publication, play, motion picture, broadcast, telecast or other production in a manner reasonably calculated to convey the impression that such use is approved, endorsed or authorized by the Agency, shall be fined not more than \$10,000 or imprisoned not more than five years, or both.

TRANSFER OF PERSONNEL, PROPERTY, AND FUNCTIONS

SEC. 314. (a) All personnel employed by the Central Intelligence Agency, as in effect on the day before the effective date of this title, and all obligations, contracts, properties, and records employed, held, or used primarily in connection with any function to be performed by the Agency under this title, are transferred to the Director of National Intelligence.

- (b) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges which have become effective in the exercise of functions transferred under this title, shall continue in effect until modified, terminated, superseded, set aside, or repealed by the Director of National Intelligence, by any court of competent jurisdiction, or by operation of law.
- (c) The provisions of this title shall not affect any proceedings pending before the Central Intelligence Agency as in effect prior to the effective date of this title.
- (d) No suit, action, or other proceeding begun by or against any officer in his official capacity in the Central Intelligence Agency, as in effect prior to the effective date of this title, shall abate by reason of enactment of this title.
- (e) With respect to any function transferred by this title and exercised after the effective date of this title, reference in any other Federal law to any department, agency, office, or part thereof shall be deemed to refer to the department, agency, or office in which such function is vested pursuant to this title.

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Registry

Section 418 of Title IV on Retirement System

STAT

[redacted]
Assistant for Information, DDA
7D-02, Hqs.

[redacted] 13 January 1978

STAT

STAT

Legislative Counsel
ATTN: [redacted]
7D-49, Hqs.

You asked me to compare Section 418 with the language of the CIA Retirement Act. I attach a copy of page 102 on which I have underscored the lines which refer to designation of participants in CIARDS. In order to bring Section 418 into step, I suggest the following phrasing:

"The Director may, however, continue to designate for participation...certain employees of the Agency whose duties are determined to be (i) in support of Agency activities abroad hazardous to life or health or (ii) so specialized because of security requirements as to be clearly distinguishable from normal government employment...."

STAT

Signed

[redacted]

Att: a/s

STAT

AI/DDA: [redacted] (13 Jan 78)

Distribution:

Original - Addressee

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ber of employees, referred to hereafter as the system; such rules and regulations to become effective after approval by the chairman and ranking minority members of the Armed Services Committees of the House and Senate.⁸

(b) The Director shall administer the system in accordance with such rules and regulations and with the principles established by this Act.

(c) In the interests of the security of the foreign intelligence activities of the United States and in order further to implement the proviso of section 102(d)(3) of the National Security Act of 1947, as amended (50 U.S.C. 403(d)(3)), that the Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure, and notwithstanding the provisions of the Administrative Procedure Act (5 U.S.C. 1001 [now 511] et seq.)⁹ or any other provisions of law, any determinations by the Director authorized by the provisions of this Act shall be deemed to be final and conclusive and not subject to review by any court.¹⁰

Establishment and Maintenance of Fund

SEC. 202. There is hereby created a fund to be known as the Central Intelligence Agency Retirement and Disability Fund which shall be maintained by the Director. The Central Intelligence Agency Retirement and Disability Fund is referred to hereafter as the fund.

Participants

SEC. 203. The Director may designate from time to time such Agency officers and employees whose duties are determined by the Director to be (i) in support of Agency activities abroad hazardous to life or health or (ii) so specialized because of security requirements as to be clearly distinguishable from normal government employment, hereafter referred to as participants, who shall be entitled to the benefits of the system. Any participant who has completed fifteen years of service with the Agency and whose career at that time is adjudged by the Director to be qualifying for the system may elect to remain a participant of such system for the duration of his employment by the Agency and such election shall not be subject to review or approval by the Director.